



City of Carmel

BOARD OF ZONING APPEALS

January 28, 2002

The regularly scheduled meeting commenced at 7:10 PM in the Council Chambers of City Hall, Carmel, Indiana.

Members present: Leo Dierckman; Michael Mohr; Earlene Plavchak; Pat Rice; and Charles Weinkauff, thereby establishing a quorum.

Department of Community Services Staff in attendance: Director Michael Hollibaugh; Laurence Lillig; Jeff Kendall, Building Commissioner.

The minutes of the November 2001 meeting were approved as submitted.

John Molitor reported on the Executive Session this evening in which pending litigation items were discussed. The litigation on the Cell Tower in the northwest part of the township will go to mediation and John Molitor recommended the Board authorize Director Michael Hollibaugh to represent the Board at the mediation session in early April.

Pat Rice moved to allow Director Michael Hollibaugh to represent the Board of Zoning Appeals in the mediation of the Cell Tower litigation. This motion was seconded by Earlene Plavchak and APPROVED 5-0.

John Molitor also reported on pending State legislature intended to clarify notice requirements for lawsuits filed on behalf of remonstrators when the remonstrators are the aggrieved party after a Board decision. Senate Bill 341 is authored by Senator Murray Clark who represents part of the township. The legislation also states that it is not necessary to name remonstrators when the petitioner is filing a lawsuit.

Department Report, Laurence Lillig. The following items are tabled for this evening: 1h through 9h, Lakes at Hazeldell; item 10h, WTF Sprint Spectrum, A-97-01; Northwood Hills Section 1, Lot 6, Docket SU-161-01; Old Business Item 1i., Lakes at Hazeldell Subdivision Section 1, Common Area 3.

At this time, there was open discussion regarding **Docket No. SU-161-01 Northwood Hills, Section 1, Lot 6**, Special Use petition that was Tabled due to improper Publication of Notice. The petition expired in November 2001.

Michael Mohr made motion to give formal notice to the Eastons, either by John Molitor or the City Attorney, that their property must be brought into compliance by midnight February 25 or Special Use filed for hearing at the February 25th meeting. The motion was seconded by Leo Dierckman and APPROVED 5 in favor, 0 opposed.

Election of Officers:

Michael Mohr was elected President by Unanimous Consent.

Pat Rice was elected Vice President by Unanimous Consent.

H. Public Hearing:

3h-5h. *These Items Currently Tabled:*

Lakes at Hazel Dell, Section 1, Lot 16 (UV-133-00; V-156-00; V-157-00)

Petitioner seeks a Use Variance of *Section 5.1: Permitted Uses* in order to establish a temporary model home/sales office. Petitioner also seeks Developmental Standards Variances of *Sections 25.7.02-7(c): Maximum Sign Area; and 25.7.01-7(d): Maximum Sign Height*. The site is zoned S-1/Residence – Low Density.

Filed by Joseph M. Scimia of Baker & Daniels for Zaring Homes of Indiana.

6h. *This Item Currently Tabled:*

Lakes at Hazel Dell, Section 1, Lot 17 (UV-134-00)

Petitioner seeks a Use Variance of *Section 5.1: Permitted Uses* in order to establish a temporary model home/sales office. The site is zoned S-1/Residence – Low Density.

Filed by Joseph M. Scimia of Baker & Daniels for Zaring Homes of Indiana.

7h-10h. *These Items Currently Tabled:*

Lakes at Hazel Dell, Section 1, Lot 237 (UV-135-00; V-153-00; V-154-00; V-155-00)

Petitioner seeks a Use Variance of *Section 5.1: Permitted Uses* in order to establish a temporary model home/sales office. Petitioner also seeks Developmental Standards Variances of *Sections 25.7.02-7(b): Number and Type of Signs; 25.7.02-7(c): Maximum Sign Area; and 25.7.02-7(d): Maximum Sign Height*. The site is zoned S-1/Residence – Low Density.

Filed by Joseph M. Scimia of Baker & Daniels for Zaring Homes of Indiana.

11h. *This Item Currently Tabled:*

Lakes at Hazel Dell, Section 1, Lot 238 (UV-136-00)

Petitioner seeks a Use Variance of *Section 5.1: Permitted Uses* in order to establish a temporary model home/sales office. The site is zoned S-1/Residence – Low Density.

Filed by Joseph M. Scimia of Baker & Daniels for Zaring Homes of Indiana.

12h. **Concord Village, Section 4, Lot 125 (V-112-01)**

Petitioner seeks a Developmental Standards Variance of *Section 8.4.3(A): Minimum Front Yard* in order to encroach 3' 6" into the 35-foot R-2/Residence Minimum Front Yard (yielding a 31' 6" front setback). The site is located at 412 Lexington Boulevard. The site is zoned R-2/Residence.

Filed by Gary Vickrey for Walter M. & Tamara B. Keck.

Walter Keck, 412 Lexington Boulevard, Carmel appeared before the Board requesting a Variance to allow a front porch to encroach 3' 6" into the minimum front yard setback. Tara Ashley Keck, daughter, was also in attendance.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared and the public hearing was closed.

Chuck Weinkauff moved for approval of **Docket No. V-112-01**. The motion was seconded by Leo Dierckman and **APPROVED 5-0**.

13h. Northwood Hills, Section 1, Lot 6 (SU-161-01)

Petitioner seeks approval of a Special Use to continue a commercial kennel use originally Approved with Conditions for a period of eighteen (18) months on May 22, 2000, as *Docket No. SU-19-00*. The site is located at 6320 Northwood Drive. The site is zoned S-1/Residence – Low Density.

Filed by Gerald & Evelyn J. Easton.

See Discussion Notes on page 1.

14h. Dan Young (Penske) Chevrolet (SUA-162-01)

Petitioner seeks approval to amend the Special Use Amendment approval granted June 25, 2001, as *Docket No. SUA-71-01*. The site is located at 3120 East 96th Street. The site is zoned B-3/Business located partially within the SR 431/Keystone Avenue Overlay Zone.

Filed by Charles D. Frankenberger of Nelson & Frankenberger for Dan Young Chevrolet.

Present for Petitioner: Charlie Frankenberger, 4983 St. Charles Place, Carmel, attorney; and Chuck Kotterman, architect, representing Penske Chevrolet, formerly Dan Young. Request is for a Special Use; petitioner will be appearing at Plan Commission committee February 5.

Previously approved: 19,500 square foot extension of the east end of the north building closest to Keystone Office Park, and secondly, the reduction of the south building was also approved.

Since the approvals, the petitioner decided to eliminate the 19,500 square foot extension on the east side of the north building. The petitioner will be installing a 7,750 square foot addition on the west side of the north building; and 3,000 square feet will be added to the north end of the south building.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared and the public hearing was closed.

The previous approval (SUA-71-01) was approved with the condition the petitioner dedicate a 75 foot one-half right-of-way along 96th Street and this has been accomplished. Regarding the current matter, SUA-162-01, the Department is recommending approval conditioned upon satisfactory resolution of Docket No. 162-01 ADLS Amendment before the Plan Commission.

Leo Dierckman moved for approval of **SUA-162-01, conditioned upon** the approval of Docket No. 162-01 ADLS Amend currently before the Plan Commission. The motion was seconded by Earlene Plavchak and **APPROVED 5-0 with conditions as noted.**

15h. **Simeon Hawkins' Addition, Lot 15 (part) (UV-165-01)**

Petitioner seeks a Use Variance of *Section 10.1: Permitted Uses* in order to establish a two-chair beauty shop in an existing residential structure. The property is located at 140 First Street Northwest. The property is zoned R-4/Residence.
Filed by Richard Sanders.

Present for Petitioner: Richard Sanders, 11033 Haverstick Road, Carmel, owner of property located at 140 First Street NW., and Salon Operator Donna Rissler, Bryn Mawr, Noblesville.

Remonstrance:

Howard Box, 130 First Street NW, requests clarification and qualification. Concerns: Zoning variance should be restricted to beauty salon use and two chair capacity salon. Concern is for stability of area and community growth.

Vicki Collier, 131 Second Avenue NW, echoes Howard Box's comments. Also would like restrictions on capacity of salon.

Opposed: None

Department Recommendation: Negative Consideration. Parking does not and cannot meet standards for commercial use; landscaping does not meet standards, rights-of-way for both First Street NW and Second Avenue NW are deficient from standards of City. First Street has a 30 foot existing right-of-way; Second Avenue has a 15 foot right-of-way—the commercial standard is 60 feet of right-of-way. The property is not suitable for conversion to commercial use, since it cannot meet the standards for commercial use as set by the Community. A number of developmental standards variances would need to be approved by the Board in order to develop this property in the manner suggested.

Also, the Petitioner has written Findings of Fact from perspective of tenants and hardship they may suffer. The standard for a Use Variance is that the need arises from a natural condition peculiar to the subject property--in fact, there is no condition of property to support conversion to commercial use.

The public hearing was then closed.

There was much discussion regarding the parking situation, a major issue. Parking on street is not a solution; with the 15 foot and 30 foot rights-of-way, this would pose a serious problem.

In response to questions from the Board, Mr. Sanders said the upstairs will not be used for anything except possible storage.

Pat Rice asked if the petitioner had considered the Department's recommendations. Mr. Sanders responded in the affirmative, but disagreed with the Department's assessment of the parking situation. There is a parking lot across the street that could be used for additional parking.

Ms. Rice was concerned about the lack of a landscape plan and a definitive parking plan—the lot across the street may not always be available. Mr. Sanders said he had met with the Urban Forester and he is willing to commit to planting a Redbud Tree and a Dogwood Tree. There is a proposed access ramp to the north and Mr. Sanders is willing to commit in writing to build the ramp if the Variance is granted.

Mr. Weinkauff said with a two-chair facility, there would be four cars on the premises--two clients in chairs, two waiting—and the operators would need parking space for two cars—A total of 6 cars, and 6 spaces needed.

Mr. Sanders would like to use the existing curb cut off of First Street NW for additional cars rather than follow the City's recommendation of creating a curb cut off Second Avenue NW and taking down trees to install a parking lot and removing the current parking area.

Donna Rissler, Salon Operator, addressed the Board and stated there is adequate parking available; people park parallel to the Monon and utilize the trail, the café on the corner, etc. Ms. Rissler proposed to park her car there all day and have the parking area available for clients.

Pat Rice said the parking is an issue, and she would not be agreeable to having the petitioner park on the street all day.

Earlene Plavchak asked about signage. Laurence Lillig responded the type of sign shown is prohibited in this area. The Sign Ordinance allows the type of sign shown in the Old Town District, but this property falls outside what the Sign Ordinance defines as Old Town. The illustrated sign in the packets is not in conformance.

Leo Dierckman asked if the petitioner were willing to commit parcel No. 16 09-25-12-01-034-000 as a part of the Variance to be used for additional parking. Mr. Sanders responded in the affirmative.

Leo Dierckman moved for approval of **Simeon Hawkins' Addition, Lot 15 (part) Docket No. UV-165-01, conditioned upon** the following: 1) restriction of a 2-chair facility salon, no residential use permitted but residential character and existing structure of the building is to be maintained, 2) the second parcel No. 16 09-25-12-01-034-000 is to be included and used for parking and all employees must park in the provided lot on premises, and 3) planting the Redbud and Dogwood trees as suggested by the Urban Forester. **The petitioner must return to the Board for necessary variances in respect to parking, landscaping, and signage, within 60 days.** The motion was seconded by Chuck Weinkauff and **APPROVED 5-0 WITH CONDITIONS.**

I. Old Business:

- 1i. **Lakes at Hazel Dell Subdivision, Section 1, Common Area 3 (SUA-88-00)**
Petitioner seeks to amend the lifeguarding commitment made as part of the Board's approval (*Docket No. SU-37-99; approved August 23, 1999*) of the amenity area. The site is located at 12474 Dellfield Boulevard West. The site is zoned S-1/residence. Filed by Joseph M. Scimia of Baker & Daniels for Zaring Homes of Indiana.

TABLED

There being no further business to come before the Board, the meeting was adjourned at 9:05 PM.

Michael Mohr, President

Ramona Hancock, Secretary